(4)

SINGLE BENCH

IN THE HIGH COURT OF JUDICATURE AT BILASPUR
CHHATTISGARH

W.P. (S)NO. 814 /2007

PETITIONER : Hanuman Prasad Vaishnav
S/o. Late Shri Raghunath Das Vaishnav, aged about 47 years, resident of Village & Post Siladehi, Tahsil Champa, District – Janjgir-Champa (C.G.)

P.N. 977/07
Presented by Shri Surendra Dewangan
Date 03/02/07

VERSUS

RESPONDENTS :1. State of Chhattisgarh
Through the Secretary, Department of Human Resources, D.K.S. Bhawan Raipur (C.G.)

2. The Collector, Janjgir-Champa, District Janjgir-Champa (C.G.)

3. District Project Officer, Rajeev Gandhi Shiksha Mission, Janjgir-Champa (C.G.)

4. District Project Co-ordinator, Rajeev Gandhi Shiksha Mission, Janjgir - Champa (C.G.)

5. The President, Janpad Panchayat Janjgir-Champa (C.G.)

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6. Shri Ratan Chand Dewangan, Assistant Teacher Birra, Tahsil and District Janjgir-Champa (C.G.)

WRIT PETITION UNDER ARTICLE 226 OF CONSTITUTION OF INDIA

(35)

HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. (S) No. 814 of 2007

Petitioner : Hanuman Prasad Vaishnav

Versus

Respondents : State of Chhattisgarh and others

SB: Hon'ble Mr. Justice **Satish K. Agnihotri, J**

Present: Mr. Gautam Khetrapal, Advocate for the petitioner.

Ms. Deepali Pandey, Panel Lawyer for State/respondents No. 1 to 4.

None appears for the other respondents.

ORDER

(Passed on this 12th Day of February, 2007)

1. By this petition the petitioner impugns the order dated 27.1.2007 (Annexure P/1), passed by the Respondent No.3- Collector in the capacity of District Project Officer, Rajeev Gandhi Shiksha Mission, Janjgir Champa, whereby the petitioner has been relieved from the charge of Shankul Prabhari, Birra and he was directed to perform his duties on the original post in Sonadah School. By this order the charge of Shankul Prabhari, Birra has been given to the respondent No.6.
2. According to the petitioner, he is basically an Assistant Teacher, appointed in the year 1980. Under the policy of Serva Shiksha Abhiyan, Sankul Kendras were created. As per Rajeev Gandhi Shiksha Mission for supervision of Sankul Kendras the Collector is authorized to appoint teachers as Prabhari (In-charge) of a Sankul Kendra. Earlier vide order dated 6.9.2006 (Annexure P/5) the respondent No.6, who was assigned the charge of Shankul Prabhari, Jan Shiksha Kendra, Birra, was relieved from that

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charge and in his place the petitioner was assigned the charge of Shankul Prabhari.

3. By the order impugned, on the basis of certain complaints against the petitioner, the petitioner has been relieved from the charge of Shankul Prabhair, Birra and in his place the charge has been given to the respondent No.6.

4. Learned counsel for the petitioner submits that the impugned order has been passed without assigning any reason and no opportunity of hearing was afforded to the petitioner. Thus, the order is bad in law.

5. Admittedly, the substantial appointment of the petitioner is on the post of Assistant Teacher. The petitioner was assigned the responsibility of Sankul Prabhari (In-charge). There was no provision for payment of any honorarium or allowances attached with the additional assignment of Sankul Prabhari (In-charge). Thus, removal of the petitioner from the assignment on the basis of certain complaints does not come within the purview of dismissal or removal known in service law. It also does not attach any stigma or visit with any penal consequences asto effect the future prospect of the petitioner for promotion etc.

6. It is well settled principle of law that this Court while exercising its jurisdiction under Article 226 of the Constitution of India has limited jurisdiction to the extent of reviewing the case, in the event, there is perversity, irregularity or illegality in the process of decision, not in the decision itself.

7. The Supreme Court in the case of **V. Ramana Vs. A.P. SRTC and others** { (2005) 7 SCC 338 } after having considered the dicta laid down in B.C. Chaturvedi Vs. Union of India {(1995) 6 SCC 749},

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Union of India Vs. G. Ganayutham {(1997) 7 SCC 463} and other cases, observed in para 11, as under:-

> "11. The common thread running through in all these decisions is that the court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in Wednesbury case[4] the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision for that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not the decision."

8. In **Ram Saran Vs. IG of Police, CRPF and others** {(2006) 2 SCC 541} the Supreme Court observed as under:-

> "8. The courts should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn. (1948) 1 KB 223 : (1947) 2 All ER 680 (CA) commonly known as Wednesbury case the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in the decision-making process and not the decision. (See V. Ramana v. A.P. SRTC)."

9. The impugned order dated 27.1.2007 is simpliciter withdrawal of additional responsibility or assignment and not punitive in nature.

It is apparent that on the basis of certain complaints against the petitioner, he has been relieved from the charge which does not amount to stigma or punishment on the service career of the petitioner. It seems that the respondent No.3 having formed the opinion that it is in the public interest for maintaining an efficient administration at the Shankul Kendra, withdrew the additional charge from the petitioner. The principles of natural justice have no place in the context of the withdrawal of additional assignment and it is not subject to the judicial scrutiny.

10. In view of the foregoing, the petition deserves to be and is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Subhash